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June 6, 2012

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JUN 11 2012

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Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

OFFICE OF
COUNSEL

MUR # 6598

**RE: Complaint against Andrei Cherny and the Andrei for Arizona
Committee (C00511980), PO BOX 23838, TEMPE, AZ 85285**

To whom it may concern:

A review of the disclosure report filed with Federal Election Commission by Andrei Cherny and his campaign, the Andrei for Arizona Committee, and the attached news article from the Arizona Capitol Times's Yellow Sheet Report, raise the concern that Mr. Cherny and his campaign commissioned a poll and never reported it. Such an act would mean that Mr. Cherny and his campaign are not in compliance with the Federal Election Campaign Act and the rules promulgated thereunder by this Commission. The information is known to me through an analysis of his Campaign Finance report and the aforementioned news article, which are attached to this complaint:

- ***Cherny's campaign's April 2012 Quarterly Report (12951438161) shows that Cherny's campaign did not report any expenditure in polling or research.*** Campaigns are required to disclose expenditures, even those made while a pre-candidate is still "testing the waters." A poll is a meaningful campaign expenditure and must to be reported to the FEC in quarterly reports. Likewise, Mr. Cherny's campaign committee failed to indicate any debts to a polling firm or any other entity.
- ***Cherny's campaign attempted to use a December, 2011 polling memo [attached] to convince another candidate not to run for Congress, according the Arizona Capitol Times's Yellow Sheet Report [attached].*** The May 80, 2012 edition of the Arizona Capitol Times's Yellow Sheet Report ("His Lunch with Andrei," page 4) indicates that Mr. Cherny himself provided a copy of the attached polling memo to candidate for Congress David Schapira in an attempt to convince Mr. Schapira not to run for the seat.
- ***According to this article in the Arizona Capitol Times's Yellow Sheet Report, the December, 2011 polling memo was based on a poll conducted by the firm Public Policy Polling (www.Publicpolicypolling.com).*** This particular poll is not available on the firm's website, where its public polls are customarily posted. Instead, the poll appears to have been conducted on behalf of a private client. The memo purports to have been written by unidentified "Supporters of Andrei Cheruy."

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- Yet, according to the article, Mr. Cherny personally had access to the December, 2011 polling memo in January, 2012, which would strongly indicate that his campaign was either given an unreported in-kind contribution in the form of the poll, or that he and / or his campaign had paid for the poll itself and failed to report the expenditure. Either reason would constitute a serious violation of the Federal Election Campaign Act.

I believe the matters discussed above violate federal campaign finance laws and regulations. I trust that this commission will investigate these matters thoroughly and take appropriate action.

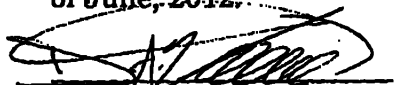
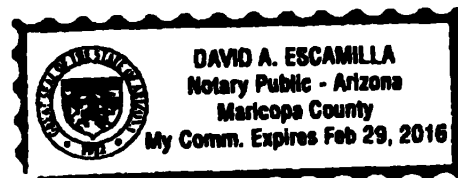
Thank you for your attention to these matters. Please do not hesitate to contact me if you require additional information.

Sincerely,



Sharon Thomas

Sworn to and subscribed
before me this 15th day
of June, 2012.


Notary Public

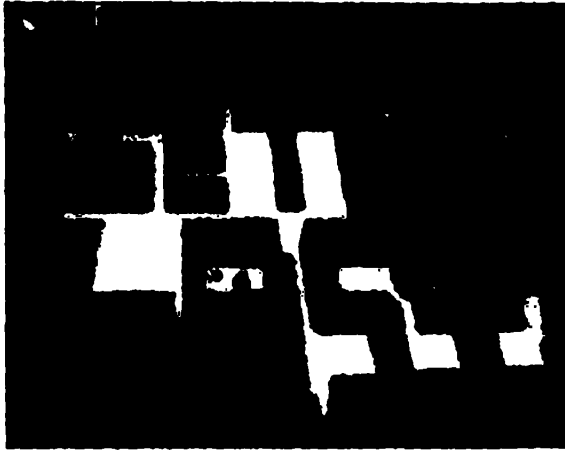
My Commission expires on February 29, 2016.

Yellow Sheet Report

HIS LUNCH WITH ANDREI

by alyson.zepeda

Published: May 30th, 2012



Schapira told our reporter that Cherny and Dem consultant Bill Scheel tried to talk him out of the CD9 race in an early January meeting, which the Cherny campaign denied. According to Schapira, Cherny requested a meeting with him and the three went to lunch at Athenian Express on Jan. 4. During the meeting, he said Cherny and Scheel sought to keep him out of the race with the help of a Dec. 27 polling memo from Public Policy Polling that said Cherny would fare well in a head-to-head race with Sinema, who declared her candidacy that day, but that Sinema's chances improved in a three-way race. "It was probably the strangest meeting I have ever been a part of. Andrei was using an auto-dial messaging poll, a method that his campaign is now criticizing, that showed him in last place to try to convince me to step aside. How a candidate with almost zero connections to the district can feel so entitled to a congressional seat is surprising to me," Schapira told our reporter. (Note: PPP is a respected national polling firm. Cherny's campaign has criticized a recent Schapira automated voter survey that was not conducted by a pollster.) He said Cherny told him that Sinema was too liberal to win and that he was intent on beating her, but that only someone with a lot of resources and a more conservative profile could beat her. D.J. Quinlan, Schapira's campaign manager, told our reporter Cherny expressed concern that Sinema would consolidate much of the female vote, which accounted for nearly 59 percent of Dem primary voters in CD9 last cycle, while he and Schapira split the male vote. "I think Andrei doesn't think, or at least at some point believed, that he couldn't beat Kyrsten with David in the race," Quinlan said. Cherny campaign manager Seth Scott said he was unfamiliar with the results of the poll that Schapira referenced. Scott said Schapira and Quinlan are mischaracterizing the meeting, which he said was held for the two then-prospective candidates to discuss the race. "Candidates often talk about, 'What are you going to do?' trying to find out what people are going to [do] when your intentions are unknown. No one tried to push him out, although the concerns that a lot of folks had about David's candidacy have come to fruition," Scott said. Scheel, who is now working for Cherny's campaign, said no one urged Schapira to get out of the race, but he hoped the information they presented to him would convince him to stay out. "We were laying out the best information we have about what would happen in a three-way race. But I think we were very clear that... David is a good guy with a very bright political future ahead of him. Losing a congressional race and not having another office to fall back on is not the best situation for him. From my perspective, I was trying to help him get to the point where his political future is a positive one as opposed to a negative one," Scheel said. He added that he cautioned Schapira to be realistic about how much money he could raise, and predicted that Schapira wouldn't be able to raise enough to compete. "History has proven our assessment to be accurate," Scheel said, referring to the \$131,000 Schapira raised in the first quarter, compared to Cherny's \$430,000 and Sinema's \$258,000. A copy of the polling memo the Cherny campaign used in the December meeting with Schapira can be viewed in the "documents" section.

Complete URL: <http://yellowsheetreport.com/2012/05/30/his-lunch-with-andrei/>

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